

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
: CRIMINAL NO. 1:18-430
v. : (JUDGE MANNION)
SALLY A. BERRY, :
: Defendant :
:

ORDER

Based on the court's memorandum issued this same day, **IT IS**
HEREBY ORDERED THAT:

- (1)** The defendant Sally A. Berry's letter Motion for Immediate Release to Home Confinement, (**Doc. 36**), based on COVID-19 is construed as an emergency petition for writ of habeas corpus pursuant to 28 U.S.C. §2241.
- (2)** The clerk of court is directed to docket Berry's Doc. 36 motion as a §2241 habeas petition and to assign it a separate civil number. Due to the immediate request for relief sought, the clerk of court is directed forgo the thirty-day administrative order requiring Berry to pay the filing fee for a habeas petition, as that can be addressed in the proper jurisdictional court.

(3) The clerk of court is then directed to forthwith transfer Berry's habeas petition to the U.S. District Court for the Southern District of West Virginia.

(4) To the extent Berry's Doc. 36 motion could be alternatively construed as a motion for compassionate release, it is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction since she has failed to comply with §3582(c)(1)(A)'s exhaustion requirement.

s/ *Malachy E. Mannion*

MALACHY E. MANNION

United States District Judge

DATE: April 27, 2020

18-430-01